

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of the Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE SIDE OF THE FORM.)

**I.(a) PLAINTIFFS**

Mary Smith and Jimmy Smith, Plaintiff(s)

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Burlington County, NJ  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEY'S (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Adam D. Wilf, Esquire  
Lundy Law  
1635 Market Street, 19<sup>th</sup> Floor  
Philadelphia, PA 19103  
215-567-3000

**DEFENDANTS**

SuperValu, Inc. and ACME Markets, Inc., Defendant(s)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Hennepin County, MN  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

**ATTORNEYS (IF KNOWN)**

Marks, O'Neill, O'Brien & Courtney, P.C.  
1800 JFK Boulevard, Suite 1900  
Philadelphia, PA 19103  
Attorney for Defendants

**II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)**

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN X IN ONE BOX FOR DIVERSITY CASES ONLY FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   |   |                                    |  |
|---|---|------------------------------------|--|
|   | PTF DEF   |                                    | PTF DEF  |
| Citizen of This State                   | <input type="checkbox"/> 1 <input type="checkbox"/> 1                       | Incorporated or Principle          | <input type="checkbox"/> 4 <input type="checkbox"/> 4            |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 2 | Place of Business in this State    | <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3                       | Incorporated and Principle         | <input type="checkbox"/> 6 <input type="checkbox"/> 6            |
|   |   | Place of Business in Another State |  |
|   |   | Foreign Nation                     |  |

**IV. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

2120 Premises Liability - Slip and Fall (Cause of Action)

**V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)**

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgement <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contact Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Liable & Slander <input type="checkbox"/> 330 Federal Employer's Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med - Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R. R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/ etc. <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Free Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

**VI. ORIGIN**

- ☐ 1 Original Proceeding  
☒ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from another district (specify)

☐ 6

Multidistrict Litigation

☐ 7 Appeal to District Judge from Magistrate Judgement

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION COMPLAINT: ☐ UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint:  
JURY DEMAND: X YES ☐ NO

**VIII. RELATED CASE(S) IF ANY**

(SEE INSTRUCTIONS)

JUDGE Judge of Related CaseDOCKET NUMBER Docket Number of Related Case

SIGNATURE OF ATTORNEY OF RECORD

*E. Charles*

DATE: September 20, 2011

UNITED STATES DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MARY SMITH AND JIMMY SMITH  
89 Brooklawn Drive  
Willingboro, NJ 08046

v.

SUPERVALU, INC.  
East View Innovation Center  
7075 Flying Cloud Drive  
Eden Prairie, MN 55344 and

ACME MARKETS, INC.  
39 Leopard Road  
Paoli, PA 19301

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

September 20, 2011

SuperValu, Inc. and ACME Markets, Inc.

Date

Attorney-at-law

Attorney for

(215)564-6688

(215)564-2526

echalik@mooclaw.com

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM** to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 89 Brooklawn Drive, Willingboro, NJ 08046

Address of Defendant: East View Innovation Center, 7075 Flying Cloud Drive, Eden Prairie, MN 55344 and 250 East Parkcenter Blvd., Boise, Idaho 83706

Place of Accident, Incident or Transaction: 2091 Route 130 North/Levitt Parkway, Willingboro, NJ 08046  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)).

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) Slip & Fall
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

**ARBITRATION CERTIFICATION**

(Check appropriate Category)

I, Elizabeth A. Chalik, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 9/20/11

E. Chalik  
Attorney-at-Law

88157

Attorney I.D.#

**NOTE:** A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/20/11

E. Chalik  
Attorney-at-Law

88157

Attorney I.D.#

CIV. 609 (4/03)

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

MARY SMITH  
And  
JIMMY SMITH

**Plaintiffs,**

vs.

CIVIL ACTION NO.

SUPERVALU, INC.  
and  
ACME MARKETS, INC.

**Defendants.**

**DISCLOSURE STATEMENT FORM**

Please check one box:

X      The nongovernmental corporate party, SuperValu, Inc. in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

X      The nongovernmental corporate party, ACME Markets, Inc. in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

SuperValu, Inc.

September 20, 2011

Date

/s/Elizabeth A. Chalik

Signature

Counsel for: Defendants, SuperValu, Inc. and ACME Markets, Inc.

**Federal Rule of Civil Procedure 7.1 Disclosure Statement**

- (a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file Two copies of a disclosure statement that:
- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
  - (2) states that there is no such corporation.
- (b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:
- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
  - (2) promptly file a supplemental statement if any required information changes.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

659-92154

MARY SMITH AND JIMMY SMITH

CIVIL ACTION

vs.

NO.

SUPERVALU, INC. AND ACME MARKETS,  
INC.

**NOTICE OF FILING NOTICE OF REMOVAL  
TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF PENNSYLVANIA**

TO: Adam D. Wilf, Esquire  
Lundy Law  
1635 Market Street, 19<sup>th</sup> Floor  
Philadelphia, PA 19103

**PLEASE TAKE NOTICE** that SuperValu, Inc. and ACME Markets, Inc., in the matter of Mary Smith and Jimmy Smith vs. SuperValu, Inc. and ACME Markets, Inc., originally pending in the Court of Common Pleas in the County of Philadelphia, Pennsylvania, under August Term 2011, No. 3430, files in the United States District Court for the Eastern District of Pennsylvania, their Notice of Removal of said cause to the Eastern District of Pennsylvania. A copy of the Notice of Removal is attached hereto and served herewith.

**MARKS, O'NEILL, O'BRIEN  
& COURTNEY, P.C.**

By: EC7557  
Elizabeth A. Chalik, Esquire  
Attorney I.D. No.: 88157  
1800 JFK Boulevard, Suite 1900  
Philadelphia, Pa. 19103  
215-564-6688  
Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

659-92154

MARY SMITH AND JIMMY SMITH

CIVIL ACTION

vs.

NO.

SUPERVALU, INC. AND ACME MARKETS,  
INC.

**NOTICE OF FILING NOTICE OF REMOVAL  
TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF PENNSYLVANIA**

TO: Adam D. Wilf, Esquire  
Lundy Law  
1635 Market Street, 19<sup>th</sup> Floor  
Philadelphia, PA 19103

**PLEASE TAKE NOTICE** that SuperValu, Inc. and ACME Markets, Inc., in the matter of Mary Smith and Jimmy Smith vs. SuperValu, Inc. and ACME Markets, Inc., originally pending in the Court of Common Pleas in the County of Philadelphia, Pennsylvania, under August Term 2011, No. 3430, files in the United States District Court for the Eastern District of Pennsylvania, their Notice of Removal of said cause to the Eastern District of Pennsylvania. A copy of the Notice of Removal is attached hereto and served herewith.

**MARKS, O'NEILL, O'BRIEN  
& COURTNEY, P.C.**

By: EC7557  
Elizabeth A. Chalik, Esquire  
Attorney I.D. No.: 88157  
1800 JFK Boulevard, Suite 1900  
Philadelphia, Pa. 19103  
215-564-6688  
Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

659-92154

MARY SMITH AND JIMMY SMITH

vs.

SUPERVALU, INC. AND ACME MARKETS,  
INC.

CIVIL ACTION

NO.

**NOTICE OF REMOVAL**

AND NOW, Defendants, SuperValu, Inc. and ACME Markets, Inc., by and through their attorneys, MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C., hereby remove the above-captioned case to this Honorable Court and provide notice of same to counsel representing the Plaintiffs. In support of the removal, the Defendants aver as follows:

1. This is an action filed and now pending in the Philadelphia Court of Common Pleas, August Term, 2011, No. 3430.
2. A copy of Plaintiffs' Complaint is attached hereto as Exhibit "A".
3. This action was instituted by complaint in the Court of Common Pleas of Philadelphia County on or about August 23, 2011 by Plaintiffs filing a complaint at the above court term and number.
4. Plaintiffs' Complaint was served on SuperValu, Inc. on September 1, 2011 via certified mail.

5. This Notice of Removal is being filed within thirty (30) days after receipt by the Defendants of the initial pleading setting forth the claim for relief upon which this action is based in accordance with 28 U.S.C. §1446(b).

6. This is a civil suit and involves controversy between citizens of different states. Plaintiffs, upon information and belief, at the time of the commencement of the above action were citizens of the State of New Jersey.

7. As alleged in Plaintiffs' Complaint, Defendant, SuperValu, Inc., is in fact a Delaware corporation with its principal place of business located in Eden Prairie, Minnesota.

8. Plaintiffs' Complaint alleges that Defendant, ACME Markets, Inc. is a Delaware Corporation with its headquarters located in Paoli, Pennsylvania. Although ACME Markets, Inc. is a Delaware Corporation, its principal place of business is not located in Paoli, Pennsylvania. On the contrary, ACME Markets, Inc. maintains its principal place of business in Boise, Idaho.

9. As averred in Plaintiffs' Complaint, the damages claimed by Plaintiffs are in excess of \$50,000.00.

10. Defendants allege and aver upon information and belief that the amount in controversy is in excess of \$75,000.00, exclusive of interests and costs. Further, Plaintiffs' counsel specifically advised defense counsel that the amount in controversy did in fact exceed \$75,000.00 and would not agree to execute a Stipulation limiting Plaintiffs' damages to \$75,000.00 to avoid removal to Federal Court.

11. The above-described Civil Action is one in which this Honorable Court has original jurisdiction pursuant to Title 28 United States Code Section 1332 based upon the fact that there exists diversity of citizenship between the parties and the amount in controversy is in excess of \$75,000.00, exclusive of interests and costs, and is accordingly one which may be



removed to this Honorable Court by Notice pursuant to Title 28, United States Code, Section 1441.

12. Promptly after filing this Notice of Removal in this Honorable Court, a copy of this Notice of Removal will be filed with the Court of Common Pleas of Philadelphia County, Commonwealth of Pennsylvania, in accordance with 28 United States Code, Section 1446(d).

13. Copies of all process, pleadings and order served upon defendant as of the time of this removal are attached hereto in accordance with 28 United States Code, Section 1446(a).

14. Defendants have contemporaneously with the filing of this Notice of Removal given written notice to Plaintiffs' counsel.

**WHEREFORE**, Defendants respectfully request that this action, currently docketed in the Court of Common Pleas of Philadelphia County be removed to the United States District Court for the Eastern District of Pennsylvania.

**MARKS, O'NEILL, O'BRIEN  
& COURTNEY, P.C.**

By: EC7557  
Elizabeth A. Chalik, Esquire  
Attorney I.D. No.: 88157  
1800 JFK Boulevard, Suite 1900  
Philadelphia, Pa. 19103  
215-564-6688  
Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

659-92154

MARY SMITH AND JIMMY SMITH

CIVIL ACTION

vs.

SUPERVALU, INC. AND ACME MARKETS,  
INC.

NO.

**CERTIFICATE OF SERVICE**

I hereby certify that this 20<sup>th</sup> day of September, 2011, a true and correct copy of the Defendants' Notice to Remove was served on all parties of record by first class mail, postage prepaid.

**MARKS, O'NEILL, O'BRIEN  
& COURTNEY, P.C.**

By: EC7557  
Elizabeth A. Chalik, Esquire  
Attorney for Defendants  
1800 JFK Boulevard, Suite 1900  
Philadelphia, Pa. 19103  
215-564-6688

COMMONWEALTH OF PENNSYLVANIA

:  
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SS

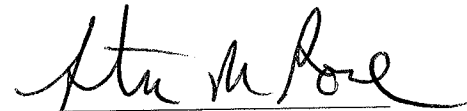
COUNTY OF PHILADELPHIA

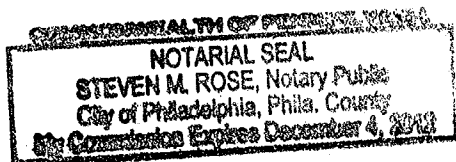
**AFFIDAVIT**

Elizabeth A. Chalik, Esquire being duly sworn according to law deposes and says that the facts set forth in the foregoing Notice of Removal are true and correct to the best of her knowledge, information and belief.

  
Elizabeth A. Chalik, Esquire

Sworn to and Subscribed  
before me this 20 day of  
September, 2011.

  
Notary Public



## **EXHIBIT A**

LUNDY LAW  
BY: ADAM D. WILF, ESQUIRE  
IDENTIFICATION NO. 78221  
19th FLOOR  
1635 MARKET STREET  
PHILADELPHIA, PA. 19103-2297  
215-567-3000  
awilf@lundylaw.com

Mary Smith  
89 Brooklawn Drive  
Willingboro, NJ 08046

Jimmy Smith  
89 Brooklawn Drive  
Willingboro, NJ 08046

Plaintiff(s)

v.

SUPERVALU, INC.  
East View Innovation Center  
7075 Flying Cloud Drive  
Eden Prairie, MN 55344

(See Additional Defendants Attached)

Defendant(s)

NOTICE TO DEFEND

PL 2S

**NOTICE**

"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

"YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**LAWYER REFERRAL SERVICE**

1 Reading Center  
Philadelphia, PA 19107  
215-238-1701

ATTORNEY FOR: PLAINTIFF  
Filed and Attested by

PROTHONOTARY  
ASSESSMENT OF DAMAGES HEARING:  
S. GARRETT

[ x ] IS [ ] IS NOT REQUIRED  
[ x ] Jury [ ] Non-Jury [ ] Arbitration

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

Trial Division

TERM

No

**AVISO**

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días, de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

"LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**LAWYER REFERRAL SERVICE**

1 Reading Center  
Philadelphia, PA 19107  
215-238-1701

**Additional Defendants:**

ACME Markets  
39 Leopard Road  
Paoli, PA 19301

LUNDY LAW  
BY: ADAM D. WILF, ESQUIRE  
IDENTIFICATION NO.: 78221  
19th FLOOR  
1635 MARKET STREET  
PHILADELPHIA, PA 19103-2297  
(215) 567-3000  
awilf@lundylaw.com

ATTORNEY FOR PLAINTIFFS

Mary Smith  
89 Brooklawn Drive  
Willingboro, NJ 08046

and

Jimmy Smith  
89 Brooklawn Drive  
Willingboro, NJ 08046

Plaintiffs

v.

SUPERVALU, INC.  
East View Innovation Center  
7075 Flying Cloud Drive  
Eden Prairie, MN 55344

and

ACME Markets, Inc.  
39 Leopard Road  
Paoli, PA 19301

Defendants

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

NO. \_\_\_\_\_

COMPLAINT

1. Plaintiffs, Mary Smith and Jimmy Smith, are wife and husband who reside at the address noted in the caption.

2. Defendant Supervalu, Inc. is a Delaware Corporation with its headquarters located at the address noted in the caption.

{00767747;1; 262440; MCH; MCH;}

Case ID: 110803430

3. Defendant, ACME Markets, Inc. (herein after "ACME"), is a Delaware Corporation with its headquarters located at the address noted in the caption and a place of business at 2091 Route 130 North/Levitt Parkway Willingboro, NJ 08046.

4. At all times relevant hereto, defendants, Supervalu, Inc. and ACME, owned, operated, leased, maintained, managed, supervised, possessed and controlled the premises located at 2091 Route 130 North/Levitt Parkway , Willingboro, NJ 08046.

5. At all relevant times ACME is owned, managed and/or controlled by defendant Supervalu.

6. At all relevant times ACME and/or Supervalu regular conduct business in Philadelphia, Pennsylvania.

7. At all times relevant hereto, there was a dangerous and/or hazardous condition in the nature of liquid at or near aisle 2 on the premises of defendant, ACME's store located at 2091 Route 130 North/Levitt Parkway, Willingboro, NJ 08046.

8. At all times relevant hereto, defendants, Supervalu, Inc. and ACME were enshrined with the duty to clear the liquid from the floor on the premises located at 2091 Route 130 North/Levitt Parkway, Willingboro, NJ 08046.

9. At all times material hereto, defendants, Supervalu, Inc. and ACME, acted and/or failed to act by and through its respective agents, servants, workmen and/or employees.

10. On, October 10, 2009, at approximately 4:00 PM, plaintiff, Mary Smith, was a business invitee of defendant, ACME's premises located at 2091 Route 130 North/Levitt Parkway, Willingboro, in the Commonwealth of Pennsylvania, when she slipped and fell on liquid at or near aisle 2 and plaintiff, Mary Smith, sustained personal injuries more fully set forth at length below.

**COUNT I**

{00767747;1; 262440; MCH; MCH;}



**Plaintiff, Mary Smith v. Defendant, Supervalu, Inc.**

11. Plaintiffs, Mary Smith and Jimmy Smith incorporate herein by reference the allegations contained in the above paragraphs as though the same was herein set forth at length.

12. The aforesaid act was caused as a direct and proximate result of the carelessness and negligence of defendant, Supervalu, Inc., by and through its agents, servants, workmen and/or employees and consisted of the following:

- a. failing to warn and/or adequately warn individuals of said dangerous, defective and hazardous condition on the premises;
- b. causing and/or permitting a dangerous and hazardous condition to exist without any warning signs, which defendant, Supervalu, Inc., knew or should have known caused an unreasonable risk of harm to business invitees;
- c. failing to properly and adequately maintain and/or clear the premises so as to prevent the dangerous and hazardous condition to exist;
- d. failing to protect the safety of business invitees as it relates to the above acts of negligence;
- e. failing to have reasonable inspections of the floor to protect customers from harm;
- f. causing, allowing and/or permitting slippery surface on the premises, so as to constitute a menace, danger, nuisance and trap to business invitees on the subject premises; and
- g. failing to properly perform its statutory, common law and ordinance duties as it relates to the above acts of negligence.

13. As a direct and proximate result of the aforesaid negligence of defendant, Supervalu, Inc., plaintiff, Mary Smith, has suffered severe and permanent injuries to her body which include but are not limited to back, hands and bi-lateral carpal tunnel. Plaintiff, Mary Smith, suffered internal injuries of an unknown nature, she suffered severe aches, pains, mental anxiety and anguish and a severe shock to her entire nervous system and other injuries the full extent of which is not yet known. Plaintiff, Mary Smith, sustained an aggravation and/or exacerbation of injuries both known and unknown. She has in the past and will in the future undergo severe pain and is unable to attend to her usual duties and occupation, all to her great financial detriment and loss.

14. As a direct and proximate result of the aforesaid negligence of defendant, Supervalu, Inc., plaintiff, Mary Smith, has been compelled to effectuate a cure for the aforesaid injuries, to expend large sums of money for medicine and medical attention and may be required to expend additional sums for the same purpose in the future.

15. As a direct and proximate result of the aforesaid negligence of defendant, Supervalu, Inc., plaintiff, Mary Smith, has been prevented from attending to her usual daily activities and duties, and may be so prevented for an indefinite period of time in the future, all to her great detriment and loss.

16. As a direct and proximate result of the aforesaid negligence of defendant, Supervalu, Inc., plaintiff, Mary Smith, has suffered physical pain and mental anguish and humiliation and may continue to suffer same for an indefinite period of time in the future.

17. As a direct and proximate result of aforesaid negligence of defendant, Supervalu, Inc., plaintiff, Mary Smith, has suffered loss of wages and earning capacity.

WHEREFORE, plaintiffs, Mary Smith and Jimmy Smith, demand judgment in their favor both jointly and severally against defendants, Supervalu, Inc. and ACME, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) plus costs, pre and post judgment interest, attorney's fees and all other relief allowed by law.

## **COUNT II**

### **Plaintiff, Mary Smith v. Defendant, ACME Markets**

18. Plaintiffs, Mary Smith and Jimmy Smith incorporate herein by reference the allegations contained in the above paragraphs as though the same was herein set forth at length.

19. The aforesaid act was caused as a direct and proximate result of the carelessness and negligence of defendant, ACME, by and through its agents, servants, workmen and/or employees and consisted of the following:

- a. failing to warn and/or adequately warn individuals of said dangerous, defective and hazardous condition on the premises;
- b. causing and/or permitting a dangerous and hazardous condition to exist without any warning signs, which defendant, ACME, knew or should have known caused an unreasonable risk of harm to business invitees;
- c. failing to properly and adequately maintain and/or clear the premises so as to prevent the dangerous and hazardous condition to exist;
- d. failing to protect the safety of business invitees as it relates to the above acts of negligence;
- e. causing, allowing and/or permitting slippery surface on the premises, so as to constitute a menace, danger, nuisance and trap to business invitees on the subject

{00767747:1; 262440; MCH; MCH;}

premises; and

f. failing to properly perform its statutory, common law and ordinance duties as it relates to the above acts of negligence.

20. As a direct and proximate result of the aforesaid negligence of defendant, ACME, plaintiff, Mary Smith, has suffered severe and permanent injuries to her body which include but are not limited to, back, hands, bi-lateral carpal tunnel. Plaintiff, Mary Smith, suffered internal injuries of an unknown nature, she suffered severe aches, pains, mental anxiety and anguish and a severe shock to her entire nervous system and other injuries the full extent of which is not yet known. Plaintiff, Mary Smith, sustained an aggravation and/or exacerbation of injuries both known and unknown. She has in the past and will in the future undergo severe pain and is unable to attend to her usual duties and occupation, all to her great financial detriment and loss.

21. As a direct and proximate result of the aforesaid negligence of defendant, ACME, plaintiff, Mary Smith, has been compelled to effectuate a cure for the aforesaid injuries, to expend large sums of money for medicine and medical attention and may be required to expend additional sums for the same purpose in the future.

22. As a direct and proximate result of the aforesaid negligence of defendant, ACME, plaintiff, Mary Smith, has been prevented from attending to her usual daily activities and duties, and may be so prevented for an indefinite period of time in the future, all to her great detriment and loss.

23. As a direct and proximate result of the aforesaid negligence of defendant, ACME, plaintiff, Mary Smith, has suffered physical pain and mental anguish and humiliation and may continue to suffer same for an indefinite period of time in the future.

{00767747:1; 262440; MCH; MCH;}

24. As a direct and proximate result of aforesaid negligence of defendant, ACME, plaintiff, Mary Smith, has suffered loss of wages and earning capacity.

WHEREFORE, plaintiffs, Mary Smith and Jimmy Smith, demand judgment in their favor both jointly and severally against defendants, Supervalu, Inc. and ACME, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) plus costs, pre and post judgment interest, attorney's fees and all other relief allowed by law.

### COUNT III

#### CONSORTIUM CLAIM

##### Plaintiff, Jimmy Smith v. Defendants, Supervalu, Inc. and ACME Markets

25. Plaintiffs, Mary Smith and Jimmy Smith, incorporate by reference the allegations contained in the above paragraphs as though the same were herein set forth fully at length.

26. Plaintiff, Jimmy Smith, is the husband of plaintiff, Mary Smith, and as such has incurred expenses for the treatment of his wife's injuries and may in the future be caused to incur additional expenses as he has in the past.

27. As a result of the aforesaid occurrence, plaintiff, Jimmy Smith, has been deprived of the society, companionship, services and assistance of his wife to which he is legally entitled.

WHEREFORE, plaintiffs, Mary Smith and Jimmy Smith, demand judgment in their favor and against defendants, Supervalu, Inc. and ACME, both jointly and severally in a sum in excess of Fifty Thousand Dollars (\$50,000.00) plus costs, pre and post judgment interest and all other relief allowed by law.

Date: August 23, 2011

BY: 

LUNDY LAW

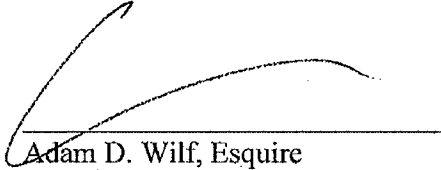
Adam D. Wilf, Esquire  
Attorney for Plaintiffs

{00767747:1; 262440; MCH; MCH;}

**VERIFICATION**

I, Adam D. Wilf, Esquire, hereby state that I am the attorney in this action and verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 PA. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_



Adam D. Wilf, Esquire